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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,481	07/29/2003	Gerard M. Cuomo	2946	7459

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EXAMINER

KING, ANITA M

ART UNIT PAPER NUMBER

3632

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,481

Applicant(s)

CUOMO, GERARD M.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

This is the fourth office action for application number 10/629,481, Surgical Microscope Apparatus, filed on July 29, 2003.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 28, 2005 has been entered.

Drawings

The drawings were received on April 28, 2005. These drawings are approved.

Claim Objections

Claim 1 is objected to because of the following informalities: in line 11, "position" should be changed to --positioning-- and in line 17, --of-- should be inserted after "location". Appropriate correction is required.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,571,038 to Jako in view of U.S. Patent 3,809,454 to Brambring. Jako discloses a surgical microscope system for operating a surgical microscope over a dental chair of the type having a hinge for rotating the patient position near the patient's hips, comprising: a substantially vertical microscope support arm (see Fig. 1) adapted for fitment on a dental chair adapted for vertical motion in concert with chair vertical motion (Col. 3, line 16ff); an articulated horizontally movable microscope positioning arm (14) having a plurality of hinged links, connected to the vertical support arm; and a microscope coupler (12) for connecting the microscope to the positioning arm; whereby the microscope system is supported for vertical motion and location the support arm; and whereby motion of a portion of the chair is used to focus the microscope.

Jako inherently discloses a method of using a surgical microscope with a chair having a movable chair bottom and having a rotatable chair back comprising the steps of: mounting a microscope on a substantially vertical pole connected to a dental chair bottom; moving the chair bottom to position the microscope at a location comfortable for the microscope user; rotating the seat back about a pivot point bringing the subject into approximate focus of the microscope; and manipulating the variable focus of the microscope to refine the focus to suit the user.

Jako discloses the claimed invention except for the limitations of the links being for restricting arm motion solely in a horizontal plane and a clamp. Brambring teaches a microsurgical operating unit for a microscope (22), including a substantially vertical microscope support arm (13), an articulated horizontally movable microscope positioning arm (21) having a plurality of hinged links (21a & 21b), each link having a vertical axis for

restricting arm motion solely to a horizontal plane, the positioning arm connected to the vertical support arm with a clamp (17), and the clamp allowing vertical orientation and vertical motion along the length of the vertical support arm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the system in Jako to have included the unit as taught by Brambring for the purpose of moving the microscope to any position desired by the user.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jako combined with Brambring and in further view of U.S. Patent 4,548,373 to Komura and in further view of U.S. Patent 2,697,776 to Wale. Jako further teaches a terminal link (12). Jako combined with Brambring disclose the claimed invention except for the limitation of the terminal link with a repositionable axis of rotation orthogonal to the vertical support arm. Komura teaches a microscope system including a vertical support arm (10), an articulated horizontally movable positioning arm having a plurality of links (2 & 3), a microscope coupler (30), a terminal link (4) with a repositionable axis of rotation orthogonal to the vertical support arm proximate the microscope. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the system in Jako combined with Brambring to have included the terminal link as taught by Komura for the purpose of providing an alternative means for aiding in the positioning of the microscope in relation to the patient and the vertical support arm.

Jako combined with Brambring and Komura disclose the claimed invention except for the limitation of the terminal link having several discreet pre-selected angles of inclination. Wale teaches a system having a terminal link (10) with a repositionable axis of rotation, and having an opening (@12) for receiving a cylindrical member (14) and a pivot

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pin (22) for insertion into an aperture in a tube (26) whereby a support (40) may be inclined at any of several discreet pre-selected angles with respect to another support (C). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the terminal link in Komura to have included the link as taught by Wale for the purpose of providing an alternative, mechanically equivalent means for adjusting an object such as a microscope in a variety of positions in relation to a support system.

Response to Arguments

Applicant's arguments, see amendment, filed April 28, 2005, with respect to claims 1 and 2 in regards to the Malis reference have been fully considered and are persuasive. The rejection of claims 1 and 2, in regards to Malis, has been withdrawn.

Applicant's arguments with respect to claims 1 and 3 in regards to the Jako reference have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 4,562,987 to Leeds et al.

U.S. Patent 5,379,205 to Peng

U.S. Patent 6,478,272 to McKinsey et al.


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The above patents all disclose various types of articulating horizontally movable positioning arms having a plurality of hinged links, wherein each link has a vertical axis for restricting arm motion solely to a horizontal plane.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anita M. King
Primary Examiner
Art Unit 3632

June 28, 2005